

**REMARKS/ARGUMENTS**

With the foregoing amendments, claims 1-6, 8-20 and 22-23 are pending. Favorable consideration is requested.

At the outset, applicants thank the Examiner for the recent telephone interview that helped to advance this application. Applicants also note with appreciation the Examiner's indication of allowable subject matter in claim 7. As discussed in the interview, the claims have been amended to incorporate the allowable subject matter from original claim 7 into all of the claims, and, consequently, claim 7 has been cancelled.

Turning to the specific rejections, claims 5 and 14 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Applicants respectfully request the withdrawal of the rejection for the following reasons.

Attached is a printout of forty (40) patents that include the claim phrase "visually indistinguishable" that the USPTO has deemed appropriate. Visually indistinguishable is commonly interpreted to mean using normal eyesight to distinguish or not distinguish something. The same standard meaning applies in this case where no abnormal definition has been set forth in the specification. This is in accord with the recent Federal Circuit case of *Xerox v. 3Com*, 458 F.3d 1310 (Fed.Cir. 2006) (claim phrase "sloppiness space" was not indefinite), where the court confirmed that claim terms are not indefinite if the claim term is susceptible to construction, i.e., the specification adequately defines the term for a person of ordinary skill in the art. A claim term is only indefinite if it is "insolubly ambiguous." In this case, it is clear that the claim phrase "visually indistinguishable" means that people walking on the carpet cannot see any difference in the yarns before they become dirty.

Applicants believe that their claim phrases are appropriate and do not conflict with the claimed subject matter. Applicants have invented and are claiming certain carpet fabrics that have yarns that are visually indistinguishable. These yarns can be made of hollowfil fibers and multi-lobal fibers provided that they are visually indistinguishable when used in the methods and constructions of the claimed invention. The claims properly cover these features, just like the claims in the 40 cited patents.

Claims 22 and 23 stand rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully request the withdrawal of this rejection for the following reasons.

Applicants submit that the specification, e.g., the wide variety of compositions disclosed in paragraph [0006] of the specification and the structures shown in the Figures, support the claim language and describe the claimed invention. Paragraph [0006] identifies the same compositions for both types of fibers and yarns, and the Figures show the different cross-sections. Thus, the application complies with the written description requirement and supports the claims.

Claims 1-6 and 8-20 stand rejected as either anticipated by or obvious over Barber. Respectfully stated, although applicants do not agree with the rejection, applicants submit that the amended claims (which incorporate the allowable subject matter of claim 7) render this rejection moot.

In view of the foregoing amendments and remarks, applicants submit that the application is in condition for allowance. A notice to that effect is earnestly solicited.

If the examiner has any questions concerning this application, the undersigned may be contacted at 703-816-4009.

HUTCHISON  
Appl. No. 10/612,284  
February 5, 2007

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'D. Byers', written over a horizontal line.

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1 7,133,124	<a href="#">Security element structure for documents, devices for checking documents with such security elements, method of the use thereof</a>
2 6,538,383	<a href="#">High-pressure mercury lamp</a>
3 RE38,022	<a href="#">Dispensing head</a>
4 6,510,919	<a href="#">Facing system for a flat panel radiator</a>
5 6,491,852	<a href="#">Method of making monolithic terrazzo floors having seamlessly integrated inlays</a>
6 6,439,465	<a href="#">Encoding small amounts of embedded digital data at arbitrary locations within an image</a>
7 6,433,888	<a href="#">Auto restoration of a print</a>
8 6,285,377	<a href="#">Method and apparatus for generating a smooth normalized star diagram</a>
9 6,158,742	<a href="#">Vampire count hide and go seek game</a>
10 6,000,621	<a href="#">Tilings of mono-code and dual-code embedded data pattern strips for robust asynchronous capture</a>
11 5,915,597	<a href="#">Dispensing head</a>
12 5,825,475	<a href="#">System and method for determining which of a plurality of visually indistinguishable objects have been marked with a covert indicator</a>
13 5,786,902	<a href="#">Photographic printer and method of digitally correcting for a photographic printer</a>
14 5,758,224	<a href="#">Fusible life indicator and identification device for an electrophotographic consumable product</a>
15 5,752,607	<a href="#">Process for distinguishing plumbing parts by the coatings applied thereto</a>
16 5,712,994	<a href="#">Method and system for apparent direct editing of transient graphic elements within a data processing system</a>
17 5,704,678	<a href="#">Cap protector for pickup truck sidewalls</a>
18 5,698,826	<a href="#">Selective back lighting of appliance control panel</a>

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- 20 [5,604,858](#) **T** [Method and system for apparent direct editing of fixed display elements within a data processing system](#)
- 21 [5,482,767](#) **T** [Light-transmitting laminated panel and method of improving its impact resistance](#)
- 22 [5,399,468](#) **T** [Color photographic silver halide duplicating element and process](#)
- 23 [5,260,252](#) **T** [Thermal latent image material and method of producing and developing the same](#)
- 24 [5,218,386](#) **T** [Eyeglasses with spectral color shift](#)
- 25 [5,169,155](#) **T** [Coded playing cards and other standardized documents](#)
- 26 [5,044,688](#) **T** [Method and apparatus for vehicle body resurfacing](#)
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- 29 [4,627,819](#) **T** [Teaching or amusement apparatus](#)
- 30 [4,625,740](#) **T** [Fingernail tip device](#)
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